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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,436	10/13/2001	Hans Westmijze	ACD2665 US	2901

7590 11/06/2002
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EXAMINER

REDDICK, MARIE L

ART UNIT	PAPER NUMBER
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1713

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DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/889,436

Applicant(s)

WESTIMIJE ET AL

Examiner

Judy M. Reddick

Art Unit

1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 16-29.

Claim(s) withdrawn from consideration: NONE.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Judy M. Reddick
Judy M. Reddick
Primary Examiner
Art Unit: 1713

Continuation of 5. does NOT place the application in condition for allowance because: It is urged and maintained that the instantly claimed invention is obvious within the meaning of 35 USC 103 over EP'712 in combination with International WO'835, Lundin et al'250, Lundin et al'481 and Satomi et al as per reasons clearly set forth in the Grounds of Rejection of record (paper no. 11, 06/25/02). Further the transitional phrase "consists essentially of" only precludes those components that would alter the basic and novel characteristics of applicants composition (Reference In re Janakirama-Rao, 317 F2d 951, 137 USPQ 893, CCPA 1963). Moreover, EP'712 teaches the use of a polyether polysiloxane as an alternative to the water-soluble copolymer of a C8-C24 alpha-olefin and an alpha, beta-unsaturated dicarboxylic acid esterified with an ethoxylated alcohol having a degree of ethoxylation of 1-45. See the ABSTRACT, page 2, lines 53-58 and page 3, lines 35-36. Applicants' claims simply don't preclude any additional component of the prior art. IN any event, the secondary prior art is relied on to show that it would have been prima facie obvious to use an ethoxylated fatty alcohol in the composition of EP'712 and with a reasonable expectation of success. There is absolutely nothing viable on this record diffusing this issue.

Continuation of 10. Other: Claim 24 (replacement for claim 10) is rejected under 35 USC 112, 2nd paragraph as per reasons stated in the previous Office Action (paper no. 11, 06/25/02)..